

No. 16377 ✓

United States
Court of Appeals
for the Ninth Circuit

WILLIAM D. FREEMAN,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

FILED

APR - 6 1959

PAUL P. O'BRIEN, CLERK

Appeal from the United States District Court for the
Southern District of California
Southern Division.



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INDEX

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	PAGE
Application to Extend Time for Filing Record and Docketing Appeal Filed November 12, 1958	5
Order Re	6
Application to Extend Time for Filing Record and Docketing Appeal Filed December 9, 1958	10
Order Re	12
Attorneys, Names and Addresses of.....	1
Certificate by Clerk.....	12
Judgment	3
Notice of Appeal.....	4
Stipulation as to Facts.....	7

NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

EDGAR G. LANGFORD,
J. PERRY LANGFORD,
416 Spreckels Building,
San Diego 1, California.

For Appellee:

LAUGHLIN E. WATERS,
United States Attorney;
PETER J. HUGHES,
Assistant U. S. Attorney;
U. S. Customs & Courthouse Building,
San Diego 1, California.

United States District Court for the Southern
District of California, Southern Division

No. 27,757—Criminal

UNITED STATES OF AMERICA,

vs.

WILLIAM D. FREEMAN.

JUDGMENT

On this 26th day of Sept., 1958, came the attorney for the government and the defendant appeared in person and by counsel, E. G. Langford.

It Is Adjudged that the defendant has been convicted upon his plea of not guilty, and a finding of guilty of the offense of failure to register as convicted marihuana violator, in violation of U.S.C., Title 18, Sec. 1407, as charged in the Indictment in one count, and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the imposition of sentence is suspended and defendant is placed on probation for a period of four years, on condition that he obey all laws, Federal, State or municipal, that he comply with all lawful rules of the Probation Officer, that he does not use nor associate with known users of

marihuana or narcotics in any form, and that he does not enter Mexico without permission from the Probation Officer.

It Is Adjudged that bond of defendant is exonerated.

/s/ JACOB WEINBERGER,
United States District Judge.

[Endorsed]: Filed September 26, 1958. [2]

[Title of District Court and Cause.]

NOTICE OF APPEAL

William D. Freeman, defendant above named, whose address is 2936 Webster Avenue, San Diego, California, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the judgment of conviction entered against him in the above-entitled cause on the 26th day of September, 1958.

Imposition of sentence in said cause was suspended and the defendant was placed on probation. He is presently at liberty.

Dated, this 3rd day of October, 1958.

EDGAR G. LANGFORD, and
J. PERRY LANGFORD,

By /s/ EDGAR G. LANGFORD,
Attorneys for Defendant.

[Endorsed]: Filed October 3, 1958. [3*]

[Title of District Court and Cause.]

APPLICATION TO EXTEND TIME FOR FILING
RECORD AND DOCKETING APPEAL,
AND ORDER

Defendant and appellant, William D. Freeman, hereby applies to the above-entitled Court for an order extending his time for filing the record and docketing the appeal in the above-entitled action until the 10th day of December, 1958. This application is made on the following grounds and reasons:

1. Notice of Appeal was filed on the 3rd day of October, 1958.

2. Defendant and appellant is informed that the Clerk is unable to complete the record on appeal within forty (40) days of the filing of the Notice of Appeal. [4]

3. Counsel for plaintiff and defendant are now in the process of agreeing upon a statement of the evidence to be used in lieu of a transcript.

Wherefore, defendant and appellant, William D. Freeman, respectfully requests that he be granted an extension of time to and including the 10th day of December, 1958, within which to file the record and docket the appeal herein.

Dated: November 12, 1958.

Respectfully submitted,

EDGAR G. LANGORD, and
J. PERRY LANGFORD,

By /s/ EDGAR G. LANGFORD,
Attorneys for Defendant
and Appellant.

Points and Authorities

Federal Rules of Criminal Procedure,
Rule 39-C.

I hereby acknowledge receipt of the within Application to Extend Time for Filing Record and Docketing Appeal on behalf of defendant and appellant, William D. Freeman, on this 12th day of November, 1958.

LAUGHLIN E. WATERS,
United States Attorney for the Southern District of
California.

By /s/ PETER J. HUGHES,
Assistant United States
Attorney.

ORDER

It Is So Ordered This 12th day of November,
1958.

/s/ JACOB WEINBERG,
U. S. District Judge.

[Endorsed] : Filed November 12, 1958. [5]

[Title of District Court and Cause.]

STIPULATION AS TO FACTS

It Is Hereby Stipulated and Agreed by and between plaintiff and defendant herein, through their respective counsel, that the ultimate facts, established by the evidence introduced at the trial of the above-entitled cause, and the stipulations entered into thereat, which are necessary for a proper determination of the points presented by the appeal of said defendant from the judgment of the Court finding him guilty of having violated the provisions of the United States Code, Article 18, Section 1407, are as follows, to wit:

Defendant was prosecuted under an indictment charging that the defendant, being a citizen of the United States who had been convicted of a marijuana offense for which a sentence of more than one (1) year might have been imposed, did fail to register with the customs officials upon his return to the United States on July 20, 1958, and did fail to surrender the certificate required to be [7] obtained upon leaving the United States.

The defendant entered a plea of not guilty, waived trial by jury, and on August 22, 1958, was tried before the Honorable Jacob Weinberger, Judge, sitting without a jury.

At the trial, the parties stipulated that on July 20, 1958, defendant was a citizen of the United States; that, on said day, he returned to and entered the United States at the port of San Ysidro,

in San Diego County, within the Southern District of California; that, at the time of such entry, he did not register with a customs agent or employee; that he did not surrender a certificate required to be obtained upon leaving the United States by persons who had been convicted of a violation of the marijuana or narcotics laws of the United States or a State, the penalty for which is imprisonment for more than one (1) year.

It was further stipulated that on June 20, 1955, in the Superior Court of the State of California, in and for the County of San Diego, defendant was found guilty of having violated the provisions of California Health and Safety Code Section 11500, by possessing marijuana; that on July 14, 1955, said Court made an order suspending imposition of sentence and placing defendant on probation for a period of three (3) years; that defendant's probation period expired on July 14, 1958, and on [8] July 31, 1958, the Honorable John A. Hewicker, Judge of said Court, acting under authority of California Penal Code Section 1203.4, made an order directing that the verdict finding defendant guilty be vacated, a plea of not guilty entered, and the information upon which he had been prosecuted be dismissed; and further that the defendant be released and discharged and further relieved from all the penalties and disabilities resulting from the offense of which said defendant was convicted.

In addition to said oral stipulations made at the trial, there were admitted in evidence, the following documents:

1. Government's Exhibit "I," a certified copy of the order made by the Superior Court of the State of California, in and for the County of San Diego, granting defendant probation.

2. Government's Exhibit "II," a certified copy of the Information charging the defendant and the Minutes of said aforementioned Court at the time defendant was found guilty.

3. Defendant's Exhibit "A," a certified copy of the Affidavit of the Probation Officer, and the Order of the Court, dismissing the Information.

Upon the foregoing evidence, the trial court found defendant guilty as charged, and ordered that sentence be suspended and defendant placed on probation for a [9] period of four (4) years.

Defendant's appeal is based solely upon the ground that the evidence presented at the trial is and was insufficient to sustain the finding of the trial court, for the reason that it failed to establish that on July 20, 1958, defendant was a person who was required to register under the provisions of the United States Code Section, Title 18, Section 1407.

Dated: November 28, 1958.

PETER J. HUGHES,
Assistant United States
Attorney;

By /s/ PETER J. HUGHES,
Attorney for Plaintiff.

EDGAR G. LANGFORD, and
J. PERRY LANGFORD,

By /s/ EDGAR G. LANGFORD,
Attorneys for Defendant.

The foregoing Stipulation as to Facts is hereby approved.

Dated: December 4, 1958.

/s/ JACOB WEINBERGER,
Judge.

[Endorsed]: Filed December 5, 1958. [10]

[Title of District Court and Cause.]

APPLICATION TO EXTEND TIME FOR
FILING RECORD AND DOCKETING AP-
PEAL

Defendant and appellant, William D. Freeman, hereby applies to the above-entitled Court for an order extending his time for filing the record and docketing the appeal in the above-entitled action until the 27th day of December, 1958. This application is made on the following grounds and reasons:

1. Notice of Appeal was filed on the 3rd day of October, 1958.

2. Defendant and appellant is informed that the Clerk is unable to complete the record on appeal within the time heretofore fixed for filing the record and docketing said appeal. [11]

3. That an agreed statement of the evidence to be used in lieu of a transcript has been filed with the Clerk of this Court.

Wherefore, defendant and appellant, William D. Freeman, respectfully requests that he be granted an extension of time to and including the 27th day of December, 1958, within which to file the record and docket the appeal herein.

Dated: December 9, 1958.

Respectfully submitted,

EDGAR G. LANGFORD, and
J. PERRY LANGFORD,

By /s/ EDGAR G. LANGFORD,
Attorneys for Defendant and
Appellant.

Points and Authorities

Federal Rules of Criminal Procedure,
Rule 39-C.

I hereby acknowledge receipt of the within Application to Extend Time for Filing Record and Docketing Appeal on behalf of defendant and appellant, William D. Freeman, on this 9th day of December, 1958.

LAUGHLIN E. WATERS,
United States Attorney for the Southern District
of California;

By /s/ PETER J. HUGHES,
Assistant United States
Attorney.

ORDER

It Is So Ordered this 9th day of December, 1958.

/s/ JACOB WEINBERGER,
U. S. District Judge.

[Endorsed]: Filed December 9, 1958. [12]

[Title of District Court and Cause.]

CERTIFICATE BY THE CLERK

I, John A. Childress, Clerk of the above-entitled Court, hereby certify that the items listed below constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit, in the above-entitled case:

A. The foregoing pages, numbered 1 to 12, inclusive, containing the original:

Judgment.

Notice of Appeal.

Application to extend time for filing Record and Docketing Appeal and Order thereon, filed 11/12/58.

Stipulation as to Facts.

Application to extend time for filing Record and Docketing Appeal and Order thereon, filed 12/9/58.

I further certify that my fee for preparing the foregoing record, amounting to \$1.60, has been paid by appellant.

Dated: February 9, 1959.

[Seal] JOHN A. CHILDRESS,
 Clerk;

By /s/ WM. A. WHITE,
 Deputy Clerk.

[Endorsed]: No. 16377. United States Court of Appeals for the Ninth Circuit. William D. Freeman, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Southern Division.

Filed: February 10, 1959.

Docketed: February 24, 1959.

 /s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the
Ninth Circuit.

